

1 E. MARTIN ESTRADA
2 United States Attorney
3 MACK E. JENKINS
4 Assistant United States Attorney
5 Chief, Criminal Division
6 SHAWN J. NELSON (Cal. Bar No. 185149)
7 GREGG E. MARMARO (Cal. Bar No. 338627)
8 DANIEL H. WEINER (Cal. Bar No. 329025)
9 Assistant United States Attorneys
10 International Narcotics, Money Laundering,
and Racketeering Section
11 1400 United States Courthouse
12 312 North Spring Street
13 Los Angeles, California 90012
14 Telephone: (213) 894-5339/8500/0813
15 Facsimile: (213) 894-0142
16 E-mail: shawn.nelson@usdoj.gov
gregg.marmaro@usdoj.gov
daniel.weiner@usdoj.gov

17 Attorneys for Plaintiff
18 UNITED STATES OF AMERICA

19 UNITED STATES DISTRICT COURT

20 FOR THE CENTRAL DISTRICT OF CALIFORNIA

21 UNITED STATES OF AMERICA,

22 No. 2:18-CR-00173(B)-GW-1,3,6,16

23 Plaintiff,

24 GOVERNMENT'S MOTION IN LIMINE NO.
25 7 TO EMpanel AN ANONYMOUS JURY

26 v.

27 JOSE LANDA-RODRIGUEZ, et al.,
[#1-JOSE LANDA-RODRIGUEZ],
[#3-GABRIEL ZENDEJAS-CHAVEZ],
[#6-ALVINO MUÑOZ], and
[#16-SAMANTHA RIVERA],
28
Hearing Date: August 29, 2024
Hearing Time: 8:00 a.m.
Location: Courtroom of the
Honorable George Wu

Defendants.

29 Plaintiff United States of America, by and through its counsel
30 of record, the United States Attorney for the Central District of
31 California and Assistant United States Attorneys Shawn J. Nelson,
32 Gregg E. Marmaro, and Daniel H. Weiner, hereby files its Motion in
33 Limine No. 7 to Empanel an Anonymous Jury.

This Motion is based upon the attached memorandum of points and authorities, the files and records in this case, and such further evidence and argument as the Court may permit.

Dated: August 1, 2024

Respectfully submitted,

E. MARTIN ESTRADA
United States Attorney

MACK E. JENKINS
Assistant United States Attorney
Chief, Criminal Division

/s/
SHAWN J. NELSON
GREGG E. MARMARO
DANIEL H. WEINER
Assistant United States Attorneys

Attorneys for Plaintiff
UNITED STATES OF AMERICA

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

3 Based on specific factors present in this case, including the
4 violent nature of the Mexican Mafia, the defendants' high-ranking
5 positions in the enterprise, and the highly publicized nature of this
6 case, the government requests that the Court empanel an anonymous
7 jury to protect jurors and prevent interference with the judicial
8 process. Four of the five non-exhaustive factors laid out by the
9 Ninth Circuit weigh in favor of an anonymous jury: defendants were
10 involved and participated in the Mexican Mafia, "an extraordinarily
11 violent organized criminal enterprise," United States v. Shryock, 342
12 F.3d 948, 972 (9th Cir. 2003); defendants all face a lifetime period
13 of incarceration if convicted; and this case has already received
14 publicity. Accordingly, the Court should empanel an anonymous jury
15 to ensure the jurors can perform their factfinding mission free from
16 any fear of retribution or invasion of privacy.

II. THE COURT SHOULD EMPOWER AN ANONYMOUS JURY

18 The Court may empanel an anonymous jury "where (1) there is a
19 strong reason for concluding that it is necessary to enable the jury
20 to perform its factfinding function, or to ensure juror protection;
21 and (2) reasonable safeguards are adopted by the trial court to
22 minimize any risk of infringement upon the fundamental rights of the
23 accused." Shryock, 342 F.3d at 971 (cleaned up); see also 28 U.S.C.
24 § 1863(b) (7) (a jury plan "may . . . permit . . . [the court] to keep
25 these [jurors'] names confidential in any case where the interests of
26 justice so require"); United States District Court, Central District
27 of California, General Order 24-01 ("The names of such jurors and
28 associated juror information may be kept confidential in any case

1 where the interests of justice so require.").

2 Here, the interests of justice require an anonymous jury. The
3 Court can consider the following non-exhaustive factors in
4 considering the need for jury protection: "(1) the defendants'
5 involvement with organized crime; (2) the defendants' participation
6 in a group with the capacity to harm jurors; (3) the defendants' past
7 attempts to interfere with the judicial process or witnesses; (4) the
8 potential that the defendants will suffer a lengthy incarceration if
9 convicted; and (5) extensive publicity that could enhance the
10 possibility that jurors' names would become public and expose them to
11 intimidation and harassment." Shryock, 342 F.3d at 971. These
12 factors, however, are "neither exclusive nor dispositive," and the
13 Court should consider the totality of the circumstances in deciding
14 whether the jury requires protection. Id.; United States v.
15 Fernandez, 388 F.3d 1199, 1244 (9th Cir. 2004), modified, 425 F.3d
16 1248 (9th Cir. 2005) ("Although these factors are neither exclusive
17 nor dispositive, courts have recognized the need for jury protection
18 based on a combination of factors[.]").

19 The first and second factors weigh strongly in favor of
20 empaneling an anonymous jury. All defendants are charged with
21 conspiring to participate in a violent racketeering Mexican Mafia
22 enterprise. Moreover, the government intends to elicit testimony
23 about multiple violent acts ordered or facilitated by the trial
24 defendants and their co-conspirators, including murder and assault.
25 Just as the Ninth Circuit concluded in Shryock, the defendants here
26 are "involved with the Mexican Mafia, an extraordinarily violent
27 organized criminal enterprise [with] hundreds of Mexican Mafia
28 members and associates still at large" that "[c]learly [have] the

1 capacity to harm jurors." 342 F.3d at 972. The evidence in this
2 trial will thus depict a pattern of violence that would cause a juror
3 to reasonably fear for their own safety. See also United States v.
4 Vario, 943 F.2d 236, 241 (2d Cir. 1991) (explaining that "[t]he
5 invocation of the words 'organized crime,' 'mob,' or 'Mafia,' unless
6 there is something more, does not warrant an anonymous jury," but the
7 "'something more,'" which by itself is sufficient to justify an
8 anonymous jury, "can be a demonstrable history or likelihood of
9 obstruction of justice on the part of the defendant or others acting
10 on his behalf or a showing that trial evidence will depict a pattern
11 of violence by the defendants and his associates such as would cause
12 a juror to reasonably fear for his own safety"). Indeed, given the
13 nature of the charges and the enterprise, some prospective jurors
14 during defendant Chavez's first trial expressed concern over serving
15 as jurors in the case out of fear for their safety.

16 As to the fourth factor, just as in Shryock, all defendants face
17 "lengthy incarceration if convicted." Each defendant faces life
18 imprisonment based on the special sentencing allegations in the RICO
19 conspiracy count and the 21 U.S.C. § 846 count.

20 Regarding the fifth factor, this case has received extensive
21 press, dating from the original indictment through defendant Chavez's
22 first trial, to the government's Second Superseding Indictment
23 ("SSI") and the defendants' forthcoming trial. Indeed, numerous
24 long-form articles have been written (some extremely detailed) about
25 the testimony elicited during defendant Chavez's first trial and the
26 government's SSI. See, e.g., LA Times, "Lawyer charged in Mexican
27 Mafia murder plot", available at
28 <https://www.latimes.com/california/story/2024-02-26/lawyer-charged->

1 [relaying-orders-mexican-mafia-killing](#) (Feb. 26, 2024); LA Times, "The
2 lawyer accused of being a fixer for the Mexican Mafia", available at
3 <https://www.latimes.com/california/story/2022-10-27/lawyer-mexican->
4 [mafia-accused-fixer](#) (Oct. 27, 2022); Law & Crime, "Ex-Sureño Gangster
5 Tells Jury in Mexican Mafia Lawyer's Trial a Rat 'Is a Person Who Is
6 Doing What I'm Doing Now', available at
7 <https://lawandcrime.com/crime/ex-sureno-gangster-tells-jury-in->
8 [mexican-mafia-lawyers-trial-a-rat-is-a-person-who-is-doing-what-im-](#)
9 [doing-now/](#) (Aug. 8, 2022); Law & Crime, "Los Angeles Jury Hears of
10 Lawyer's Alleged Role in Mexican Mafia Jail Extortion Scheme,"
11 available at <https://lawandcrime.com/crime/los-angeles-jury-hears-of->
12 [lawyers-alleged-role-in-mexican-mafia-jail-extortion-scheme/](#) (Aug. 3,
13 2022). Indeed, at least one prominent legal journalist (with over
14 120,000 followers on Twitter) provided real time Tweets and blog
15 posts during defendant Chavez's first trial. See, e.g., Meghan
16 Cuniff (@meghanncuniff) (Twitter post during trial stating, with an
17 attached video of defendant, "Gabriel Zendejas-Chavez, the lawyer
18 accused of working for the Mexican Mafia, left the courthouse the
19 same time as Vanessa Bryant just now and basically edged her out of
20 the spotlight. "Gabriel! Gabriel!"), available at
21 <https://x.com/meghanncuniff/status/1558211704181309440> (Aug. 12,
22 2022). Thus, just as in Shryock, a trial involving "alleged members
23 and associates of the Mexican Mafia could expect to receive extensive
24 publicity, enhancing the possibility that jurors' names would become

1 public and expose them to intimidation and harassment." Shryock, 342
2 F.3d at 972.¹

3 Moreover, as Judge Snyder found in empaneling an anonymous jury
4 in United States v. Boyajian, 2:09-cr-933-CAS (C.D. Cal.), "if
5 defendant, or anyone associated with the defense, were to attempt to
6 influence, or even make contact, with one of the jurors in this case,
7 that could readily create grounds for a mistrial . . . [which] would
8 be particularly inequitable in this case, which has been pending for
9 over six years, and in which numerous resources have been expended by
10 both the government and defendant, for defendant's trial to result in
11 a mistrial." Boyajian at Dkt. 1176 at pg. 11. So too here, where
12 this case has been pending since 2018, and has already resulted in
13 one mistrial against defendant Chavez in 2022. Thus, as Judge Snyder
14 concluded in Boyajian, the "relatively modest restrictions the
15 Government is proposing will provide a necessary and useful
16 precaution against a potential mistrial." Id.

17 **III. THE COURT CAN PROVIDE REASONABLE SAFEGUARDS TO MINIMIZE
POTENTIAL PREJUDICE**

18 As the Ninth Circuit affirmed in upholding Judge Anderson's
19 decision to empanel in anonymous jury in United States v. Baca, this
20 Court can properly "minimize[] any risk of prejudice to [defendants]
21 by instructing the jury that an anonymous jury was utilized to
22 protect the jurors' privacy and was unrelated to [defendants'] guilt
23 or innocence." 761 F. App'x 724, 727 (9th Cir. 2019). Moreover, as
24 Judge Snyder held in Boyajian, this Court can avoid such concern by
25 "providing the jury with a neutral rationale for the use of the

27 ¹ In defendant Chavez's first trial, an unidentified individual
28 was observed filming the testimony of a government cooperating
witness, which caused a brief disturbance in the proceedings.

1 anonymous jury," such as "instruct[ing] the jury that the reason for
2 their anonymity was to protect their privacy from curiosity-seekers
3 and that the use of anonymous juries was commonplace in federal
4 court." Boyajian at Dkt. 1176 at pg. 11 (citing, among other cases,
5 Shryock, 342 F.3d at 972-73).

6 Moreover, just as the government proposed in Boyajian, the
7 government here is "only proposing that a few limited facts about the
8 jurors' identities be kept confidential," i.e., their names, specific
9 street addresses, and specific place of employment. Such details
10 "can have only limited, if any, relevance during voir dire,
11 particularly where, as here, jurors will still provide information
12 about their backgrounds and the cities in which they live." Boyajian
13 at Dkt. 1176 at pg. 11. Because "potential prejudice can be limited
14 through rigorous voir dire regarding the nature of jurors'
15 occupations as well as their personal and professional affiliations,"
16 "the risk of an anonymous jury can be appropriately contained through
17 the use of precautions such as these." Id.

18 **IV. CONCLUSION**

19 For the foregoing reasons, the Court should grant the
20 Government's Motion in Limine No. 7 and empanel an anonymous jury.

21
22
23
24
25
26
27
28